



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill #	SB0323	Title:	Require state intervention in federal projects
Primary Sponsor:	Fielder, Jennifer	Status:	As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
Expenditures:				
General Fund	\$542,760	\$526,073	\$533,964	\$541,973
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$542,760)</u>	<u>(\$526,073)</u>	<u>(\$533,964)</u>	<u>(\$541,973)</u>

Description of fiscal impact: SB 323 would require the state to intervene in litigation or appeals related to federal forest management. Implementation of the legislation will result in a combined fiscal impact to the Department of Natural Resources and Conservation and the Department of Justice of approximately \$1 million for the 2019 biennium for litigation expenses.

FISCAL ANALYSIS

Assumptions:

Department of Natural Resources and Conservation (DNRC)

- Most litigation would likely occur under the National Environmental Policy Act (NEPA) on the basis of an administrative record.
- Litigation would likely include all law suits brought in Montana concerning forest management projects on lands owned by the United States Forest Service (USFS). DNRC assumes approximately six active cases each year.
- To deal with this increase in litigation, DNRC would need to contract with the Department of Justice – Agency Legal Services (ALS) to assist in-house counsel. Expert consultants in wildlife, forestry, and soil issues would also be required. Estimated costs to the DNRC for these expenses includes: attorney fees - \$160,000; legal assistant fees - \$56,250; expert consultant fees - \$120,000; and \$5,000 for travel, transcripts, and other expenses.
- An inflation factor of 1.5% has been added to costs for FY 2017 and FY 2018.

Department of Justice (DOJ)

5. The Department of Justice would require a 1.00 FTE attorney and a 1.00 FTE paralegal to carry out requirements set forth in this bill. The salary and benefit costs for the FTE would be \$190,671 in FY 2016 and \$189,943 in FY 2017.
6. DOJ estimates operating costs for one-time office setup costs, contracted administrative support, rent, and travel expenses to be \$29,835 in FY 2016 and \$13,839 in FY 2017.
5. An inflation factor of 1.5% has been added to costs for FY 2017 and FY 2018.

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<u>Fiscal Impact:</u>				
FTE (DOJ)	2.00	2.00	2.00	2.00
<u>Expenditures:</u>				
Personal Services (DOJ)	\$190,671	\$189,984	\$192,834	\$195,726
Operating Expenses (DOJ)	\$29,835	\$13,839	\$14,047	\$14,257
Operating Expenses (DNRC)	<u>\$322,250</u>	<u>\$322,250</u>	<u>\$327,084</u>	<u>\$331,990</u>
TOTAL Expenditures	<u><u>\$542,756</u></u>	<u><u>\$526,073</u></u>	<u><u>\$533,964</u></u>	<u><u>\$541,973</u></u>
<u>Funding of Expenditures:</u>				
General Fund (01)	<u>\$542,756</u>	<u>\$526,073</u>	<u>\$533,964</u>	<u>\$541,973</u>
TOTAL Funding of Exp.	<u><u>\$542,756</u></u>	<u><u>\$526,073</u></u>	<u><u>\$533,964</u></u>	<u><u>\$541,973</u></u>
<u>Revenues:</u>				
General Fund (01)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TOTAL Revenues	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$542,756)	(\$526,073)	(\$533,964)	(\$541,973)

Technical Notes:

1. Intervention is subject to the requirements of Rule 24 of the Federal Rules of Civil Procedure; intervention requires a motion to the federal court and intervention may not always be granted.
2. The mandatory intervention language does not allow the state to prioritize or strategize its participation in legal actions or to participate in an amicus status as a friend of the court.
3. SB 323 could open a risk of liability to the state for a share of attorneys' fees in these cases.

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date